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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

15 RUDY GONZALEZ, an individual,
16 Plaintiff,

17 v.

18 XTREME MANUFACTURING, LLC, a
limited-liability corporation; and DOES 1-100,
19 inclusive,

20 Defendants.

Case No. 1:20-cv-01704-NONE-SKO

**SECOND JOINT STIPULATION TO
REQUEST STAY OF ACTION PENDING
MEDIATION; ORDER**

(Doc. 17)

Complaint Filed: December 4, 2020
Trial Date: None Set
Magistrate Judge: Hon. Sheila K. Oberto
Courtroom 7, Fresno

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1 This stipulation is entered into by and between Plaintiff RUDY GONZALEZ (“Plaintiff”)
2 and Defendant XTREME MANUFACTURING, LLC (“Defendant”) (collectively, the “Parties”), by
3 and through their undersigned counsel of record, with reference to the following facts and recitals:

4 WHEREAS, Plaintiff filed a putative Class Action Complaint in the Eastern District of
5 California on December 4, 2020 (the “Action”). On February 22, 2021, Plaintiff filed a First
6 Amended Class Action Complaint (“FAC”) in the Action;

7 WHEREAS, the operative FAC contains claims for alleged violations of the Fair Labor
8 Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*;

9 WHEREAS, in an effort to resolve this Action, the Parties agreed to engage in private
10 mediation on September 7, 2021, with an experienced wage and hour class action mediator, Lou
11 Marlin;

12 WHEREAS, on June 15, 2021, the Parties filed a joint stipulation and proposed order to
13 stay this action pending mediation;

14 WHEREAS, on June 17, 2021, the Honorable United States Magistrate Judge Sheila K.
15 Oberto signed an order staying pending case deadlines subject to the Parties agreed upon mediation
16 date of September 7, 2021;

17 WHEREAS, the Parties previously agreed, and continue to agree, to jointly request the
18 Court to stay the action to enable the Parties to allocate their resources towards a potentially
19 successful mediation and resolution of the action; and

20 WHEREAS, the Parties have agreed to move mediation to November 23, 2021 to ensure
21 adequate time for informal discovery exchange, data analysis, and preparation for a meaningful
22 settlement effort.

23 IT IS THEREFORE STIPULATED AND AGREED, by and between the undersigned
24 counsel as follows:

25 1. The Parties jointly request the Court to stay the Action and all court dates and
26 deadlines until at least 30 calendar days after the November 23, 2021 mediation date.

27 2. Defendant consents to an order equitably tolling the statute of limitations under the
28 Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 255-256, as to the alleged claims for overtime and

1 liquidated damages of all unnamed current and former hourly, non-exempt employees of Defendant
2 who earned commissions, non-discretionary bonuses and/or other items of compensation during a
3 workweek when he/she also worked more than forty (40) hours on at least one occasion from
4 December 4, 2017 forward from May 6, 2021 until sixty (60) calendar days after the November 23,
5 2021 scheduled mediation date.

6 **IT IS SO STIPULATED.**

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8 DATED: September 1, 2021

MAYALL HURLEY P.C.

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10 By: /s/ Jenny D. Baysinger
11 Robert J. Wasserman, Esq.
12 William J. Gorham, Esq.
13 Jenny D. Baysinger, Esq.

14 Attorneys for Plaintiff
15 RUDY GONZALEZ

16 DATED: September 1, 2021

17 OGLETREE, DEAKINS, NASH, SMOAK &
18 STEWART, P.C.

19 By: /s/ Rabia Z. Reed
20 Evan R. Moses
21 Michael J. Nader
22 Rabia Z. Reed

23 Attorneys for Defendant XTREME
24 MANUFACTURING, LLC

ORDER

On September 1, 2021, the Parties filed the above Second Joint Stipulation to Request Stay of Action Pending Mediation (the “Stipulation”), requesting that the Court stay all dates and deadlines until after their mediation, which has been re-scheduled for November 23, 2021. (Doc. 17.) Pursuant to the Stipulation, and for good cause shown, IT IS HEREBY ORDERED as follows:

1. All court dates and deadlines associated with the above-referenced action are stayed until after the Parties complete their November 23, 2021, mediation; and

2. The statute of limitations for claims of unnamed collective action members who worked for Defendant from December 4, 2017 forward and who earned commissions, non-discretionary bonuses and/or other items of compensation during a workweek when he/she also worked more than forty (40) hours on at least one occasion after December 4, 2017, as outlined in 29 U.S.C. §§ 255-256, is hereby equitably tolled from May 6, 2021 until sixty (60) calendar days after the scheduled November 23, 2021 mediation; and

3. In the event the case is not resolved, the Parties shall file a status report updating the Court on the outcome of the mediation and the status of the case **by no later than November 30, 2021**. The dates and deadlines relating to class certification in the Scheduling Order (Doc. 14) shall remain as set absent a court-approved stipulation.

IT IS SO ORDERED.

Dated: **September 2, 2021**

Is/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE